

REMARKS

In response to the Office Action mailed December 18, 2006, Applicant has amended claims 3, 4, 12, 16, 18, 22, 23, 26, 33-35 and 37 and added claims 38 and 39. Claims 1-39 are now pending in this application. Applicant respectfully requests reconsideration in view of the following remarks.

Amendments

Applicant has amended claims 3, 4, 12, 16, 18, 22, 23, 26, 33-35 and 37 to more appropriately define the invention.

Amended claims 3, 4, 22 and 23 now refer to both an acknowledgement that an access request is granted and an acknowledgement that an access request is denied.

Amended claim 12 recites receiving audio before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied. Similarly, amended claim 26 specifies that the processor receives audio from the wireless communication device before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied.

Amended claims 33 and 34 now recite computer-executable instructions as discussed below with respect to the rejections under sections 101 and 112, first paragraph.

Amended claim 34 specifies that audio is received before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied. Similarly, claim 37 recites transmitting the audio from the wireless communication device to the network equipment before the access request is granted and before the access request is denied.

Amended claim 35 recites transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

Prosecution History

Before addressing the rejections, Applicant first presents a brief summary of the prosecution history in this application.

In a first Office Action dated May 10, 2004, the Examiner rejected claims 1-34 under section 103 as being unpatentable over Lynk (EP 0321672) in view of Stevens (GB 2336975). In the amendment filed August, 3, 2004, Applicant added claims 35 and 36, and pointed out the differences between the claimed invention and the Lynk and Stevens references.

In a final Office Action dated December 16, 2004, the Examiner maintained the rejection under section 103 in view of Lynk and Stevens. On March 17, 2005, Applicant filed an after-final amendment reiterating the arguments with respect to Lynk and Stevens, and challenging the finality of the Office Action on the basis that the Examiner had altered the reasoning in support of the rejection.

In response to an Advisory Action dated April 7, 2005, Applicant filed a Notice of Appeal on May 16, 2005. Applicant then filed an Appeal Brief on July 5, 2005.

In response to the Appeal Brief, the Examiner reopened prosecution, issuing a non-final Office Action on September 23, 2005. In the non-final Office Action, the Examiner indicated that Applicant's request for reconsideration of the finality was persuasive, and that the finality of the previous Office Action was therefore withdrawn. The Examiner also indicated that she agreed with some of the arguments presented by Applicant, but issued new grounds of rejection. In particular, in the Office Action of September 23, 2005, the Examiner rejected various claims under section 103 as being unpatentable over Stevens alone, and rejected other claims under section 103 as being unpatentable over Stevens in view of Lynk.

Applicant filed an Amendment on December 23, 2005. In the Amendment, Applicant made minor amendments and added new claim 37. In addition, Applicant presented arguments to again distinguish the claimed inventions from Stevens and Lynk.

Applicants received a final Office Action on July 19, 2006. In the final Office Action, the Examiner rejected claims 1-34 under section 103 as being unpatentable over Lynk in view of Burns (US 20020071545A1), and further in view of Official Notice, and rejected claims 35-37 under section 103 as being unpatentable over Lynk in view of Official Notice. In this final Office Action, the Examiner did not rely on Stevens. In addition, the Examiner did not address Applicant's previous arguments with respect to Lynk or Stevens in light of the new grounds of rejection. Consequently, Applicant was left to assume that the Examiner found the arguments distinguishing Stevens to be persuasive.

Upon filing a Request for Continued Examination (RCE) on November 17, 2006, Applicant submitted an Amendment. In the Amendment, Applicant amended some claims and presented arguments distinguishing Lynk and Burns from the claimed inventions.

In the non-final Office Action dated December 18, 2006, the Examiner rejected all claims under section 103 as being unpatentable over Lynk in view of Stevens, and further in view of Official Notice. The Examiner did not address any of Applicant's previous arguments with respect to Lynk in light of the new grounds of rejection.

During the course of prosecution, the Examiner has issued five Office Actions with different grounds of rejection. The basic grounds of rejection started with Lynk in view of Stevens, moved to Stevens alone, then to Lynk in view of Burns, plus Official Notice, and now have reverted back to Lynk in view of Stevens, plus Official Notice. With previous grounds of rejection having been withdrawn in view of Stevens, it is surprising that the present Office Action now relies on Stevens again.

Request for SPE Review under MPEP § 707.02

Pursuant to MPEP § 707.02, and in view of the prosecution history outlined above, Applicant respectfully requests that the Supervisory Patent Examiner (SPE) in charge of this application inspect the prosecution history, and review the applicable rejections in the interest of expediting prosecution. This application has been pending for more than five years and has received five Office Actions. Applicant believes that review by the SPE may be helpful in expediting prosecution toward allowance of the claims.

Claim Rejection Under 35 U.S.C. § 101

The Examiner rejected claim 34 under 35 U.S.C. § 101. In support of the rejection, the Examiner stated that the claimed invention is not supported by an "asserted utility" or a "well established utility." The Examiner further stated that "instructions" must be "computer executable instructions." Applicant respectfully traverses this rejection.

It is unclear whether the Examiner was invoking the utility requirement or the statutory subject matter requirement of section 101. Based on the reference to asserted utility and well-established utility, Applicant surmises that the Examiner was questioning the utility of the invention defined by claim 34.

The basis of the rejection is unclear. Applicant is unaware of any requirement that instructions carried by a computer-readable medium must be expressed as “computer-executable” instructions, as asserted by the Examiner, in order to satisfy the utility requirement of section 101. Moreover, the Examiner provided no explanation as to how Applicant has not provided an asserted or well-established utility.

Claim 34 clearly recites subject matter that satisfies the utility requirement. In particular, claim 34 recites a computer-readable medium carrying instructions that cause a processor in network equipment in a point-to-multipoint communication system to perform certain operations. There is no basis to conclude that computer-readable medium lacks utility.

Nevertheless, to expedite prosecution, Applicant has amended claim 34, as well as claim 33, to recite computer-readable instructions. Accordingly, the rejection under section 101, on whatever basis, should now be moot.

Claim Rejection Under 35 U.S.C. § 112

The Examiner also rejected claim 34 under 35 U.S.C. § 112, first paragraph, apparently on the basis that the disclosure would not enable one skilled in the art to make and use the claimed invention. Applicant respectfully traverses this rejection.

The Examiner provided no explanation for the rejection. In particular, the Examiner provided no support for the position that one skilled in the art “would not know how to use the claimed invention.” However, the rejection apparently stemmed from the rejection under section 101. Accordingly, Applicant believes that the rejection under section 112 should be moot given the amendment of claim 34 to recite computer-executable instructions.

Claim Rejection Under 35 U.S.C. § 103

In the Final Office Action, the Examiner rejected claims 1-37 under 35 U.S.C. § 103(a) as being unpatentable over Lynk (EP 0321672) in view of Stevens (GB 2336975) and further in view of MPEP 2144.03. Applicant respectfully traverses the rejections. The applied references fail to disclose or suggest the inventions defined by Applicant’s claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

In support of the rejection, the Examiner characterized Lynk as describing transmitting and receiving a request for access to a broadcast link in a point-to-multipoint communication system. In addition, the Examiner stated that, per Lynk, a “subscriber begins to speak immediately after an access to a channel is requested.” The Examiner recognized, however, that Lynk fails to teach either transmitting or receiving audio with an access request or terminating the audio transmission in the event the access request is denied.

On the contrary, the Examiner noted that a “subscriber begins to speak” only “after an access to a channel is requested” in the Lynk system. Hence, in the Lynk system, audio is not transmitted or received with an access request. Nor does the Lynk system terminate an audio transmission in the event the access request is denied. The Examiner recognized that the Lynk reference fails to provide any teaching that would have suggested such features.

To address the shortcomings of Lynk, the Examiner cited Stevens. Stevens has been thoroughly distinguished in previous responses. Indeed, the Examiner withdrew Stevens from the last Office Action, instead relying on Lynk in view of Burns. In the current Office Action, however, the Examiner characterized Stevens as teaching transmitting audio including speech with access requests. The Examiner stated that, per Stevens, “even if resources are not available the access request and voice message are sent by a user of the group.” On this basis, the Examiner asserted that it would have been obvious to “combine Lynk’s method where the subscriber begins to speak immediately and Steven’s access in order to allow a larger number of units to be served.”

The Examiner further acknowledged that neither Lynk nor Stevens teaches terminating an audio transmission in the event an access request is denied. However, the Examiner took Official Notice of “Lynk and Steven’s admission where it is well known in the art of terminating the audio transmission in the event the access request is denied.” The Examiner concluded that it would have been obvious to “combine Lynk and Steven’s method of sending an access request and voice message with the prior art where a call is terminated if resources are not available, in order to save storage capacity in the system.”

Applicant generally agrees with the Examiner’s acknowledgement of deficiencies in the Lynk reference. Applicant disagrees, however, with the Examiner’s analysis with respect to Stevens, as well as the Examiner’s reliance on Official Notice, as discussed below.

Official Notice

The Examiner's reliance on Official Notice seems misplaced. The Examiner referred to "admission." Yet, Official Notice is not a matter of admission. Rather, the concept of admission applies to statements made by Applicant in the application or on the record. See MPEP 2129. Of course, Applicant has not made any admission along the lines suggested by the Examiner. However, the Examiner apparently was referring to passages in Stevens (pages 3 and 4, lines 36-37 and 1-3, respectively) as constituting an admission. If Stevens actually describes terminating an audio transmission in the event an access request is denied, either in discussing the Stevens system or the prior art, then it is unclear why Official Notice would be necessary. Rather, the teaching of Stevens should stand for itself. In any event, neither Stevens nor Lynk actually describes terminating an audio transmission in the event an access request is denied.

The Stevens and Lynk reference also make no mention of any other teaching in the art that would have suggested terminating an audio transmission in the event an access request is denied on the Lynk system, as modified by Stevens. In the cited passage, Stevens states:

The present invention contrasts with storing a request to connect, as occurs when calls are queued in a mobile radio system, or simply refusing to connect a call if the communication path to the or at least one of the target mobile radio units is not available.

There is nothing in the above passage that would have suggested terminating an audio transmission in the event an access request is denied. Instead, in the above passage, Stevens refers to storing an access request or refusing to connect a call. In each case, there is no termination of an existing audio transmission.

The Examiner seemed to compare refusing to connect a call with terminating an audio transmission in the event an access request is denied. Such a comparison is misplaced. When a conventional system refuses to connect a call, there is no audio transmitted. Audio is only transmitted after an access request is granted. If resources are not available, however, an access request is denied. In this case, there is simply no audio transmission to terminate. Hence, when Stevens describes refusing to connect a call, it is not referring to termination of an existing audio transmission but rather failure to initiate such an audio transmission in the first place. As an example, a wireless caller may receive an "all circuits busy" message from time to time. In this case, connection of the call is refused. Surely, the Examiner would agree that there is no audio transmission in such a situation.

Applicant respectfully submits that equating “refusing to connect” with terminating an audio transmission is illogical. Again, Stevens does not refer to terminating an audio transmission that has been transmitted with an access request. Instead, Stevens describes the prior art technique of sending nothing at all if a communication path is not available. Logically, it is not possible to terminate an audio transmission that has never even commenced. The passage in the Stevens reference concerning connection refusal cannot be reasonably construed to meet the requirements of Applicant’s claims concerning termination of an audio transmission.

Moreover, as apparently recognized in the Office Action, the actual technique described by Stevens does not involve termination, but rather retention, of call contents for later transmission when a communication path becomes available. In discussing the prior art technique of refusing connection and disclosing a technique in which a call is stored rather than terminated, Stevens teaches away from termination of an audio transmission. Stevens, in particular, discloses storage and retention of call contents, not termination, when an access request is denied.

In the Stevens system, the stored call content is retained until a suitable communication path becomes available. Thus, the approach described by Stevens represents virtually the opposite of that specified by the claims 1-11, 20-25, 33, 35 and 36. Rather than terminating the transmission of audio when an access request is denied, Stevens stores the call contents for later transmission, thereby preserving the call. Moreover, Stevens does not even transmit audio with an access request.

Applicant can find nothing in the above passage to support the Examiner’s position that it is well known in the art to terminate an audio transmission in the event an access request is denied, whether supported by admission, Official Notice, inherency, or otherwise. Neither Lynk nor Stevens makes any mention of transmitting audio including speech with an access request in the first place. Accordingly, Lynk and Stevens would not contemplate terminating an audio transmission that was never sent, whether an access request is denied or not.

Applicant traverses the Official Notice taken by the Examiner. The Examiner offered no documentary evidence in support of the assertion of Official Notice. Applicant respectfully submits that the Examiner’s unsupported finding of Official Notice does not find any basis in the common knowledge of those skilled in the art. The fact at issue is not capable of instant and unquestionable demonstration as to not be in dispute, as required by MPEP 2144.03. On the

contrary, Applicant specifically disputes the Examiner's finding of Official Notice, and asserts that it is incorrect. Therefore, Applicant requests that the Examiner provide documentary evidence in support of the Official Notice in the next Office Action, or withdraw any rejection that relies on such Official Notice.

Stevens

Applicant respectfully submits that the Examiner's interpretation of Stevens is also incorrect. As previously discussed, e.g., in the Appeal Brief filed July 5, 2005 and the Amendment filed December 23, 2005, Stevens describes a mobile radio system in which the contents of a call are stored for later transmission when a communication path to a target mobile radio unit is not available at the time the call is initially made. According to Stevens, for a group call, paths to some mobile radio units may be available while paths to other mobile radio units may not be available. Instead of refusing to connect a call to all units, the Stevens system proceeds with transmission of a call to available mobile radio units and stores the call contents for unavailable mobile radio units. Thus, for unavailable target mobile units, the call contents are stored as a message for transmission at a later time when communication paths to those target mobile radio units become available. In each case, transmission or storage is dependent on the grant or denial of an access request.

The Examiner interpreted Stevens as teaching transmission of audio including speech with access requests. In particular, the Examiner stated that "even if resources are not available the access request and voice message are sent by a user of the group," citing page 3, line 25, to page 4, line 10. The cited passage in Stevens does not suggest transmission of audio with an access request. Rather, the cited passage describes transmission of a call to available mobile radio units and storage of a call for unavailable mobile radio units without regard to whether the call contents are provided with an access request. In Stevens, the call contents are stored when an access request is denied for a mobile radio unit. However, this does not mean that the audio is transmitted with the access request, or before or without grant or denial of an access request.

The Examiner also stated that Stevens discloses receiving audio including speech before receiving an acknowledgement that the access request is granted. In particular, the Examiner asserted that the presence of speech indicates an access request in the Stevens system, citing page 4, lines 5-10. Again, the Examiner has misinterpreted Stevens. At page 4, lines 5-10,

Stevens states that “a group voice call to plural mobile units . . . will go ahead without having to wait for suitable radio channels to be available for each of the target mobile radio units.” As discussed above, this passage refers to transmission of a call to available mobile radio units and storage of the call for unavailable mobile radio units. An access request is granted for the available mobile radio units. Accordingly, Stevens provides no teaching that would have suggested transmitting audio including speech before an access request is granted.

In addition, the Examiner asserted that Stevens describes that “the access request and message are sent almost simultaneously, e.g., in push-to talk systems, the user presses the button and starts talking immediately after and the BS broadcasts information directly to each of the mobile stations when access is granted.” The portions of Stevens cited by the Examiner do not support the Examiner’s statement. If the Examiner is referring to a simple two-way, walkie-talkie system, it should be noted that there is no access request required. Rather, two users are permitted to transmit over one another. In a point-to-multipoint communication system, however, an access request is transmitted to grant access to a broadcast link.

On the basis of the erroneous assertions discussed above, the Examiner stated that it would have been obvious to “combine Lynk’s method where the subscriber begins to speak immediately and Steven’s access in order to allow a larger number of units to be served.” Stevens provides no teaching that would have suggested modification of Lynk to transmit audio with access requests, as discussed above. Consequently, even if Lynk were modified in view of Stevens, the resulting system would not conform to the requirements of Applicant’s claims.

Set forth below is a discussion of additional deficiencies of Stevens and Lynk with respect to features set forth in various claims.

Claims 1-11, 20-25 and 33 – Transmit Audio with Access Request and Termination

Neither Stevens nor Lynk makes any mention of the transmission of audio including speech with an access request in a point-to-multipoint communication system, nor termination of the audio transmission in the event the access request is denied, as required by Applicant’s claims 1-11, 20-25 and 33.

The Examiner acknowledged that Lynk does not disclose these features. Likewise, neither Stevens nor the Official Notice taken by the Examiner supports a conclusion that modification of the Lynk system to include such features would have been obvious to one of ordinary skill in the art at the time the invention was made.

Again, Stevens describes a mobile radio system in which the contents of a call are stored when a suitable communication path for a target mobile radio unit is not available. In the Stevens system, the call contents are stored as a message for later transmission to the target mobile radio unit when a communication path becomes available, i.e., when an access request is granted.

Stevens makes no mention of transmitting audio with an access request, and fails to suggest termination of such an audio transmission in the event the access request is denied. On the contrary, Stevens describes storing the audio and transmitting it later when a path becomes available. In this manner, Stevens avoids refusing to connect a call when a mobile radio unit is not available.

Therefore, neither Stevens nor any other prior art would have suggested termination of such an audio transmission in the event an access request is denied. In view of the shortcomings of the Lynk and Stevens references and the insufficiency and inapplicability of the Examiner's Official Notice, the Examiner has not established a prima facie case of unpatentability with respect to claims 1-11, 20-25, and 33. Therefore, the rejection of claims 1-11, 20-25 and 33 is improper and should be withdrawn.

Claims 12-19, 26-32 and 34 – Receive Audio Before Access Request Granted/Denied

Stevens and Lynk also fail to disclose or suggest receiving a request for access to a broadcast link in a point-to-multipoint communication system, and receiving audio from the wireless communication device before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied, as set forth in amended claims 12-19, 26-32 and 34.

The Examiner acknowledged that Lynk does not disclose these features. Likewise, neither Stevens nor the Official Notice taken by the Examiner supports a conclusion that modification of the Lynk system to include such features would have been obvious to one of ordinary skill in the art at the time the invention was made.

Stevens makes no mention of receiving audio from the wireless communication device before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied. Instead, Stevens first determines whether a call can be connected to a mobile radio unit, i.e., whether a path is available. In this case, Stevens

connects the call to the mobile radio unit. If the call cannot be connected to the mobile radio unit, i.e., after the denial of a call connection, Stevens stores the contents of the call for later transmission.

Stevens describes a method comprising “attempting a call to at least one target mobile radio unit . . . and if a suitable communication path is not available, then storing the contents of said call as a message for later transmission” (emphasis added).¹ Consistent with this method, Stevens describes a “means to store the contents of said call as a message for later transmission to those mobile radio units for which it is determined that no suitable communication path is available.”²

Stevens further states that “it is checked if there is a suitable communication path from the caller to the target mobile radio unit,” and “[i]f a suitable communication path is not available, the contents of the call are stored for future transmission.”³ Stevens indicates that this approach “contrasts with . . . simply refusing to connect a call if the communication path to . . . at least one of the target mobile radio units is not available.”⁴ In each case, however, Stevens first determines whether a mobile radio unit is available.

Therefore, Stevens does not receive audio from the wireless communication device before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied. In view of the shortcomings of the Lynk and Stevens references and the insufficiency and inapplicability of the Examiner’s Official Notice, the Examiner has not established a prima facie case of unpatentability with respect to claims 12-19, 26-32 and 34. Therefore, the rejection of claims 12-19, 26-32 and 34 is improper and should be withdrawn.

Claims 3, 4, 15, 16, 22, 23, and 35-37 – Transmit Audio Before/Without Grant/Denial

Stevens and Lynk also fail to disclose or suggest transmitting audio from a wireless communication device before receiving an acknowledgement that an access request is granted and before receiving an acknowledgement that an access request is denied, as set forth in claims 3, 15, 22, 35 and 36, as amended. Claims 4, 16, 23 and 37, as amended, require that the audio is

¹ Page 2, lines 13-22.

² Page 2, lines 31-35.

³ Page, 3, lines 1-10.

transmitted without receiving an acknowledgement that an access request is granted and before receiving an acknowledgement that an access request is denied.

Stevens does not suggest transmission of audio before or without an access request grant or denial. Stevens describes storage of call contents when a suitable communication path is not available, i.e., after denial of an access request, or after the grant of an access request grant to at least one mobile communication unit.

In support of the rejection of claims 3, 15, 22, 35 and 36, the Examiner asserted that Lynk teaches "transmitting the audio before receiving an acknowledgement that the access request is granted," citing page 5, columns 41-44, of Lynk. Assuming the Examiner intended to refer to column 5, lines 41-44, of Lynk, Applicant can find no pertinent teaching. The cited passage in Lynk refers to buffering of recorded voice until grant of a channel is made. In particular, in the cited passage, Lynk states that a grant may come soon after an access request when channel loading conditions are light, and may come before a subscriber has finished speaking.

This simply means that a grant may be received in the Lynk system while audio is being buffered at the user device, not during audio transmission. Again, Lynk teaches buffering audio for later transmission only after a grant is received. This seems to be the opposite of transmitting audio before receiving an acknowledgement that an access request has been granted. Moreover, in the Office Action, the Examiner has already noted that Lynk does not disclose transmission of audio with an access request, which must inherently take place before such an access request could be granted.

With respect to claims 4, 16, 23 and 37 the Examiner cited column 7, lines 5-8, of Lynk as teaching transmitting audio without receiving an acknowledgement that an access request is granted. However, this section of Lynk describes transmitting voice from a buffer after a channel has been granted, while the buffer continues to be filled with further speech. Hence, Lynk explicitly describes transmission of audio after a channel access request has already been granted. Again, this is virtually the opposite of what claims 4, 16 and 23 require. Also, the Examiner has already acknowledged that Lynk does not disclose transmission of audio with an access request, which must inherently take place before such an access request could be granted.

⁴ Page 3, line 36, to page 4, line 3.

In Lynk and Stevens, audio is not transmitted before receiving an acknowledgement that an access request is granted and before receiving an acknowledgement that an access request is denied, as required by claim 3, 15, 22, 35, and 36, or without receiving an acknowledgement that an access request is granted and without receiving an acknowledgement that an access request is denied, as required by claims 4, 16, and 23. Therefore, the rejections of claims 3, 4, 15, 16, 22, 23, 35, 36 and 37 should be withdrawn.

Claims 5, 17, 24, 30, and 36 - Audio Transmission Serves as Access Request

Claims 5, 17, 24, 30, and 36 specify that at least a portion of the audio transmission serves as, or is interpreted as, the access request. Claim 30, for example, specifies that the processor of the arbitration controller of claim 26 interprets at least a portion of the audio transmission as the access request. Neither Stevens nor Lynk makes any mention of such a feature.

The Examiner cited Stevens as disclosing that at least a portion of an audio transmission serves as, or is interpreted as, an access request. In particular, the Office Action pointed to page 4, lines 5-10, of Stevens, which states that that a group voice call will go ahead without having to wait for suitable radio channels to be available for each of the target mobile radio units. This statement in Stevens is completely irrelevant to the requirements of claims 5, 17, 24, 30 and 36. It says absolutely nothing about a portion of an audio transmission serving as an access request.

In Lynk and Stevens, audio does not serve as an access request, as required by claim 5, 17, 24, 30, and 36. Therefore, the rejections of claims 5, 17, 24, 30 and 36 should be withdrawn.

Claims 2, 14, and 21 - Audio Immediately Following Access Request

Claims 2, 14 and 21 further specify that the audio is transmitted immediately following transmission of the access request.

The Office Action asserted that Stevens teaches such a feature, citing page 3, lines 25-25, page 4, lines 5-10, page 5, line 37, and page 6, lines 1-12. In these passages, Stevens describes transmission of a call to available units and storage of a message for unavailable units. However, in Stevens, neither the call nor the message is transmitted immediately following transmission of an access request. Instead, as discussed previously, the Stevens system processes an access request before any audio is transmitted.

The Examiner asserted that it would have been obvious to modify Lynk in view of the alleged Steven teaching of transmitting audio immediately following transmission of an access request to “decrement delay time.” The conclusion of obviousness is improper as Steven provides no such teaching. Moreover, there is no teaching that would have suggested any benefit of reducing delay time by transmitting audio immediately following an access request. Such a teaching would have been available only from Applicant’s own disclosure, and not from any prior art of record.

Stevens describes audio transmission upon denial or grant of an access request for at least one mobile radio unit. Accordingly, this reference does not suggest transmission of audio immediately following transmission of an access request. In view of this difference, the rejection of claims 2, 14, and 21 is improper and should be withdrawn.

Claim 6 - Receiving Grant During Audio Transmission

Claim 6 requires receiving an acknowledgement that the access request is granted during transmission of the audio.

The Office Action acknowledged that Stevens does not teach receiving an acknowledgement that the access request is granted during transmission of the audio. The Office Action cited Lynk, however, for such a teaching. In particular, the Office Action pointed to Col. 6, lines 44-54, of Lynk. In the cited passage, Lynk states that a grant may come after a subscriber has finished speaking. This simply means that a grant may be received in the Lynk system after audio has been buffered, not during audio transmission. Again, Lynk teaches buffering audio, but transmitting the audio only after a grant is received. In Lynk, there simply is no audio transmission during which an acknowledgement that an access request is granted could be received.

In view of this difference, the rejection of claim 6 is improper and should be withdrawn.

Claims 9, 10, 18, 19, and 31 - Access Denial from Wireless Communication Device

Claim 9 requires receipt of denial of an access request from a wireless communication device via a wireless base station. Claim 10 specifies that an access request denial is generated within a wireless communication device that presently has access to a broadcast link. Claim 18 requires receiving an indication that an access request is denied from the wireless

communication device. Claim 19 recites transmitting an access request to a wireless communication device that presently has access to the broadcast link. Claim 31 indicates that a processor that determines whether to grant an access request resides within a wireless communication device.

With respect to claims 9 and 18, the Examiner cited Stevens' "admission" concerning receiving the denial of the access request from a wireless communication device in the system via a wireless base station. The Examiner pointed to page 3, line 36, to page 4, line 3, for such a teaching "where the BS sends a wireless radio message to the MS." Applicant is confused by the reference to this passage in Stevens, which refers to refusing to connect a call if a communication path to at least one mobile radio unit is not available. Applicant previously pointed out this discrepancy to the Examiner.

Applicant assumes that the "BS" and "MS" referred to in the Office Action are intended to refer to a base station and mobile station, respectively. There is no suggestion in Stevens that a denial of an access request is received from a wireless communication device. The sending of a message from a base station to a mobile station, whether that message is an access request denial or not, has nothing to do with the limitations of claims 9, 10, 18, 19 and 31. Those claims additionally require that the denial of an access request come from a wireless communication device, and not just from a base station.

With respect to claims 10 and 19, the Examiner cited column 7, lines 49-52 of Lynk. That passage states that "voice buffering begins to record the response (210) of the called wireline party during the time before a channel becomes available." The passage further states that the "system can warn the wireline party to wait if the assignment takes longer than the available buffering time . . . for example, the controller might respond with a message such as 'Please wait for a mobile caller.'" It is unclear how this aspect of Lynk bears any relationship to transmitting an access request to a wireless communication device that presently has access to the broadcast link, as set forth in claims 10 and 19. This passage in Lynk talks about the "system," and not any particular wireless communication device within the system that would be capable of handling an access request.

The Examiner mistakenly characterized claim 31 as referring to transmitting an access request in response to actuation of a push-to-talk input medium. Claim 31 actually specifies that

a processor associated with the arbitration controller of claim 26 resides within a wireless communication device.

In view of the above differences, the rejection of claims 9, 10, 18, 19 and 31 is improper and should be withdrawn.

Claims 13 and 27 - Discarding Audio In Event Access Request is Denied

Claims 13 and 27 require discarding transmitted audio in the event an access request is denied. Stevens and Lynk describe buffering audio for later transmission. There is no teaching in these references that would have suggested discarding audio that is transmitted with an access request. Indeed, the Office Action did not appear to address the limitations of claims 13 and 27.

In view of these differences, and the failure of the Office Action to address claims 13 and 27, the rejection of those claims is improper and should be withdrawn.

New Claims

New claim 38 recites a method comprising transmitting an access request from a wireless communication device to network equipment. The access request includes a request for access to a broadcast link in a point-to-multipoint communication system. The method further comprises receiving speech from a user of the wireless communication device, transmitting the speech from the wireless communication device to the network equipment before the wireless communication device receives an acknowledgement from the network equipment that the access request is granted and before the wireless communication device receives an acknowledgement from the network equipment that the access request is denied, and terminating the speech transmission from the wireless communication device to the network equipment in the event the access request is denied.

New claim 39 recites a method comprising transmitting a request for access to a broadcast link in a point-to-multipoint communication system, transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied, wherein the audio includes speech, and terminating the audio transmission in the event the access request is denied.

None of the prior art of record discloses or suggests the requirements of new claims 38 and 39.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 17-0026. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

4/6/07

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